

STATE OF WASHINGTON

MIKE KREIDLER  
STATE INSURANCE COMMISSIONER

Phone: (360) 725-7000



OFFICE OF  
INSURANCE COMMISSIONER

HEARINGS UNIT  
Fax: (360) 664-2782

FILED

2006 JAN 30 P 2:42

**DECLARATION OF MAILING**

I declare under penalty of perjury  
under the laws of the State of  
Washington that on the date listed  
below, I mailed or caused delivery  
of a true copy of this document to  
*Parties listed below*  
DATED this 30th day of January, 2006  
at Tumwater, Washington.

Signed: Wendy Galloway

Patricia D. Petersen  
Chief Hearing Officer  
(360) 725-7105

Hearings Unit, DIC  
Patricia D. Petersen  
Chief Hearing Officer  
Wendy Galloway  
Administrative Assistant  
WendyG@OIC.wa.gov.  
(360) 725-7002

BEFORE THE STATE OF WASHINGTON  
OFFICE OF INSURANCE COMMISSIONER

In the Matter of:

EVOLUTION SERVICES, INC.,

Unauthorized entities,

and

WILLIAM J. MILLER, STANTON L. CALL,  
WILLIAM R. OWENS, BARBARA MILLER,  
JOHN C. RIVERA, JESSE C. RIVERA,  
LISA A. COLEMAN, DAVID EMERSON LEE,  
M.D., KENNETH KAISER, SR., and  
CHRIS KOMARZEC,

Individual Respondents.

NO. D05-364

NOTICE OF HEARING

TO: Thao Tredt, Esq. &  
Gulliver Swenson, Esq.  
Ryan, Swanson & Cleveland, PLLC  
1201 Third Avenue, Suite 3400  
Seattle, Washington 98101-3034

COPY TO: Mike Kreidler, Insurance Commissioner  
Michael G. Watson, Chief Deputy Insurance Commissioner  
John Hamje, Deputy Commissioner, Consumer Protection  
Carol Sureau, Deputy Commissioner, Legal Affairs  
Charles Brown, Sr. Staff Attorney, Legal Affairs Division  
Office of the Insurance Commissioner  
PO Box 40255  
Olympia, WA 98504-0255

Mailing Address: P.O. Box 40255 • Olympia, WA 98504-0255  
Street Address: 5000 Capitol Blvd. • Tumwater, WA 98501

## NOTICE OF HEARING

No. D05-364

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On September 9, 2005, the Insurance Commissioner (OIC) received a Demand for Hearing from Brian Kreger on behalf of Evolution Services, Inc., et al. The purpose of said Demand for Hearing is to contest the Commissioner's Order to Cease and Desist entered July 26, 2005.

Accordingly, the undersigned held a first prehearing conference on September 23, 2005. Evolution Services, Inc., et al., appeared by and through their attorney, Brian Kreger, Esq., of Ryan Swanson & Cleveland in Seattle, Washington and the Commissioner was represented by Charles Brown, Sr. Staff Attorney with the Commissioner's Legal Affairs Division. During the first prehearing conference, the undersigned reviewed administrative procedure and addressed all questions and concerns of the parties. During said prehearing teleconference, the parties agreed that the hearing date should be scheduled to commence on **Thursday, March 2, 2006**.

On January 23, 2006, the undersigned held a second prehearing conference which included all parties. The undersigned heard the Commissioner's Motion to Compel and Evolution's Motion to Stay Motion to Compel, and accordingly entered her Order Compelling Discovery and Scheduling Hearing on Issue of Subject Matter Jurisdiction on January 27, 2006.

The purpose of the hearing scheduled to commence on March 2, 2006 will be to determine whether the undersigned has subject matter jurisdiction over the issues involved herein. While it is the Commissioner's position that the undersigned does have subject matter jurisdiction, Evolution has acknowledged that the undersigned has jurisdiction to determine her subject matter jurisdiction and has requested that the issue of subject matter jurisdiction be determined before a hearing on the merits is scheduled. If it is determined that the undersigned does have subject matter jurisdiction, then the hearing on the validity and propriety of the Commissioner's Order to Cease and Desist and the Commissioner's Notice of Hearing to Request Imposition of a Fine and to Determine Premium Taxes and Penalties Due will be scheduled thereafter.

The hearing will be held under the legal authority and jurisdiction granted the Commissioner by the Insurance Code, Title 48 RCW, and specifically RCW 48.04.010.

The Commissioner will be represented by Charles Brown, Sr. Staff Attorney with the Commissioner's Legal Affairs Division. His mailing address is P.O. Box 40255 and his telephone number is (360)725-7044. Licensee will be represented by Gulliver Swenson, Esq. and Thao Tiedt, Esq. of Ryan, Swanson & Cleveland, 1201 Third Avenue, Suite 3400, Seattle, WA 98101-3034; Messrs. Swenson and Tiedt filed their Notice of Appearance in this matter as Mr. Kreger indicated that he was leaving the law firm after the abovereferenced first prehearing conference. Messrs. Swenson's and Tiedt's telephone number is (206) 464-4224. The adjudicative proceeding will be conducted pursuant to the requirements of ch. 34.05 RCW, the Administrative Procedure Act, and will be governed by the model rules of procedure, ch. 10-08 WAC.

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Based upon a delegation of authority from the Commissioner, the undersigned will conduct the hearing and will make the final decision and enter the final order relative to this matter. Her address is P.O. Box 40255, Olympia, WA 98504-0255 and her telephone number is (360) 725-7105. All communications concerning this proceeding or the issues presented therein, however, should not be directed to the undersigned, but instead should be directed to Wendy Galloway, administrative assistant to the undersigned, identified above.

Any future questions or concerns, or requests for additional prehearing conferences, which may arise, may be directed by any party to Wendy Galloway, administrative assistant to the undersigned, who can be reached by telephone at (360) 725-7002, or at the above address.

As required by RCW 34.05.434(2)(I), you are advised that a party who fails to attend or participate in the hearing or other stage of the adjudicative proceeding may be held in default in accordance with ch. 34.05 RCW.

Pursuant to WAC 10-08-040(2) and in accordance with ch. 2.42 RCW, if a limited English-speaking or hearing impaired or speech impaired party or witness needs an interpreter, a qualified interpreter will be appointed. There will be no cost to the party or witness therefore, except as may be provided by ch. 2.42 RCW. A Request for Interpreter form is attached to the original of this Notice, with instructions thereon.

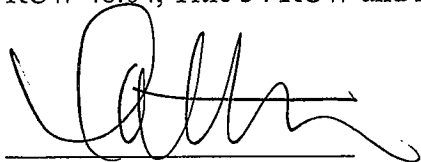
This Notice is provided pursuant to RCW 48.04.010 and RCW 34.05.434.

**ORDER**

Based upon the above activity,

IT IS HEREBY ORDERED that the adjudicative hearing in this matter, which is limited to the issue of whether the undersigned has subject matter jurisdiction over the issues herein, shall commence on **March 2, 2006 at the hour of 9:00 a.m., room 120**, in the Office of the Insurance Commissioner, 5000 Capitol Boulevard, Tumwater, Washington 98501, and shall continue on succeeding days until terminated, unless otherwise determined by the undersigned.

ENTERED AT TUMWATER, WASHINGTON, this 30<sup>th</sup> day of January, 2006 pursuant to RCW 48.04, Title 34 RCW and regulations applicable thereto.



PATRICIA D. PETERSEN  
Presiding Officer